



Signed and Filed: March 21, 2022

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
) Chapter 11
- and -) Jointly Administered
PACIFIC GAS AND ELECTRIC COMPANY,)
Reorganized Debtors.)
☐ Affects PG&E Corporation)
☐ Affects Pacific Gas and)
Electric Company)
☒ Affects both Debtors)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

ORDER DENYING MOTION TO INTERVENE BY CITY OF SANTA CLARA, DBA
SILICON VALLEY POWER AND NORTHERN CALIFORNIA POWER AGENCY

On March 15, 2022, interested parties City of Santa Clara, dba Silicon Valley Power ("SVP") and Northern California Power Agency ("NCPA") filed a *Notice of Appearance and Ex Parte Application for Order Authorizing City of Santa Clara, dba Silicon Valley Power and Northern California Power Agency to Intervene and File a Response to California Department of Water*

1 *Resources' Motion for Order Determining that the Castle Rock*
2 *Agreement Cannot Be Assumed and that the Department of Water*
3 *Resources Claim No. 78014 be Paid* (the "Intervention Motion")
4 (Dkt. 12024). On March 17, 2022 the California Department of
5 Water Resources' ("DWR") filed an Opposition to the Intervention
6 Motion (Dkt. 12035).

7 The Intervention Motion seeks to enter the fray of a
8 longstanding and nearly adjudicated dispute by filing a brief
9 according to the schedule set by the court's *Memorandum Decision*
10 *Regarding Dispute Between Debtors and the California Department*
11 *of Water Resources* (Dkt. 11999) (the "Memo"). The Memo detailed
12 the court's decision to grant DWR's *Motion for Order Determining*
13 *that the Castle Rock Agreement with PG&E Cannot be Assumed and*
14 *Claim No. 78104 be Paid* ("DWR Motion") (Dkt. 11887) and
15 subsequently set a further briefing schedule for DWR and
16 Debtors. SVP and NCPA were both served notice of the DWR Motion
17 when it was first filed on February 1, 2022. The Intervention
18 Motion makes clear that SVP and NCPA conferred with Debtors and
19 deliberately chose not to respond to the substance of the DWR
20 Motion in the belief that Debtors would prevail in their *Motion*
21 *of the Reorganized Debtors for Entry of an Order Modifying Plan*
22 *Injunction and Compelling Arbitration of Claim of California*
23 *Department of Water Resources* (Dkt. 11896), which the court
24 denied.

25 In the related dispute between Debtors and DWR, DWR
26 acknowledged the existence of an agreement among it, SVP and
27 NCPA (but not Debtors) known as the Layoff Agreement.
28 Responding to the *Reorganized Debtors' Motion for Order*

1 *Modifying Plan Injunction and Compelling Arbitration* (Dkt.
2 11896), DWR stated:

3
4 Whether DWR effectively terminated its interest in
5 the Castle Rock Agreement is a separate issue that
6 can be determined without reference to the Layoff
7 Agreement. To the extent that NCPA and SVP believe
8 they may have any cognizable action against DWR,
9 they should pursue it in state court rather than
10 attempt to manipulate the bankruptcy court
11 proceeding to seek relief through the Executory
12 Contract and Cure Dispute and claims allowance
13 process. (Dkt. 11942 at 14).

14 In determining whether a motion to intervene is timely,
15 courts consider three factors: "(1) the stage of the
16 proceedings; (2) whether the parties would be prejudiced; and
17 (3) the reason for any delay in moving to intervene." *Nw. Forest*
18 *Res. Council v. Glickman*, 82 F.3d 825, 836 (9th Cir. 1996), *as*
19 *amended on denial of reh'g* (May 30, 1996). As noted above, SVP
20 and NCPA chose not to participate in the DWR Motion for the past
21 month and a half while DWR made clear its interest in
22 determining the merits of the DWR Motion as to the Debtors from
23 the beginning. They remained on the sideline, casting their
24 fate with the Reorganized Debtors. To allow them to have a
25 second chance now would not be fair to DWR.

26 The proceedings are nearly over, DWR would be prejudiced in
27 having previously defaulted parties enter the fray, and the
28 reason for the delay is entirely the choice of SVP and NCPA.
All three factors weigh in favor of denying the Intervention
Motion. Even without intervention, DWR, SVP, and NCPA will

1 still be able to determine remaining rights under the Layoff
2 Agreement in another forum.

3 Accordingly, the Intervention Motion is DENIED.

4 **END OF ORDER**
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COURT SERVICE LIST

ECF Recipients